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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,675	09/26/2003	Manoj Ajbani	DN2002-152	9817

7590 10/06/2006

The Goodyear Tire & Rubber Company
Patent & Trademark Department - D/823
1144 East Market Street
Akron, OH 44316-0001

EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,675

Applicant(s)

AJBANI ET AL.

Examiner

Monique R. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 19-27, 29-31, 33, 35 and 43-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 19-27, 29-31, 33, 35 and 43-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/5/06 has been entered.
2. The amendment filed 8/14/06 has been entered. Claims 1-16, 19-27, 29-31, 33, 35, and 43-53 are pending in the application.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

4. Claims 1-16, 19-27, 29-31, 33, 35, and 43-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sukaki (USPN 6,723,776) in view of the admitted prior art. Sukaki et al teach a low-modulus polymer composition and sealant material made from the composition wherein the composition comprises (A) 25-75 weight parts of at least one thermoplastic elastomer selected from the group consisting of a hydrogenated styrene-isoprene-styrene block copolymer, a hydrogenated styrene-butadiene-styrene block copolymer and a styrene-ethylene-ethylene-propylene-styrene block copolymer; (B) 25-75 weight parts of a rubber component containing at least 50% ethylene-propylene-diene rubber and may include other rubbers such as SBR, based on 100 weight parts of (A) and (B); (C) 200 weight parts of a softener such as paraffin oil based on 100 weight parts of (A) and (B) or (A), (a) and (B); and further comprising (a) an olefin polymer such as polyethylene or polypropylene and, if necessary, (D) carbon black,

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wherein at least portion of the rubber component (B) is crosslinked by dynamic crosslinking utilizing a conventionally known vulcanizing agent such as a sulfur or phenolic curative (Abstract; Col. 3; Col. 6, lines 66-67; Col. 7; Col. 8, lines 30-67; Col. 9, lines 1 and 52-67.)

Sukaki et al further teach that the low-modulus composition can be molded by injection molding (Col. 4, lines 24-36) and is well suited for sealing a gap between a cable and a closure body or a space between a closure body and a wire wherein the shape of the sealant is appropriately selected (Col. 4, lines 49-55; Col. 11, lines 35-37; *wherein one skilled in the art could interpret the sealant as being overmolded onto the harder closure body or cable.*)

5. With respect to the amount of oil or softener (C), Sukaki et al teach that the amount is not less than **200 parts by weight based on 100 parts by weight** of (A) and (B) or (A), (a) and (B); and though the instant invention recites 15 to 150 weight parts of oil, the Examiner notes that the instant claims do not provide a basis for the weight parts of the oil in terms of 100 weight parts of the resin and/or elastomer components, and hence assumes the basis to total weight parts of the blend composition. Therefore, when comparing the weight parts of the various components of the two compositions, it is noted that Sukaki et al teach an elastomer composition that comprises the instantly claimed components in ranges that read upon the instant invention wherein one having ordinary skill in the art at the time of the invention would have been motivated to select from any of the materials taught by Sukaki et al in the amounts disclosed by Sukaki et al, utilizing routine experimentation to determine the desired amounts for a particular end use wherein the amounts utilized would determine which component(s) are dispersed within a matrix of the other component(s). Sukaki et al further teach that the thermoplastic elastomer composition can comprise processing aids and reinforcing including the instantly claimed

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reinforcing fillers and may be formed into molded articles by injection or press molding however Sukaki et al do not specifically teach overmolding the composition onto a “hard” substrate as instantly claimed (Col. 10, lines 19-27.) However, it is well established in the art that an elastomer molding composition may be provided with a reinforcing insert such as a metal plate or harder polymer base, such as the “hard” substrates instantly claimed, to provide support to the elastomer composition which is overmolded onto the insert, as taught by the admitted prior art (Pages 1-2 and 10), and would have been obvious to one having ordinary skill in the art at the time of the invention. Further, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize any conventional polyolefin or polypropylene such as those instantly claimed and further to determine the suitable styrene butadiene elastomer including styrene content to provide the desired elastomer properties for a particular end use.

Response to Arguments

6. Applicant's arguments filed 8/14/06 have been fully considered but they are not persuasive. The Applicant has amended the claims to recite that the oil is present in an amount of 15 to 150 parts by weight, however, as the Examiner noted above, the instant claims do not provide a basis for the amount of oil in terms of 100 weight parts of the thermoplastic and elastomer components and hence based upon the original disclosure at the time of filing, the 15 to 150 parts by weight of the oil is based on the **total weight of the blend composition including the oil**. Hence, when you compare the composition taught by Sukaki et al, with a softener or oil content of at least **200 weight parts based on 100 weight parts** of the resin components, to the instant invention with an oil content of 15 to 150 weight parts of the total composition, it is noted that the invention taught by Sukaki et al reads upon the instantly claimed

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composition particularly at the lower weight part ranges for the instantly claimed thermoplastic and elastomer components a-c. Further, it is noted that the Applicant has provided no clear showing of unexpected results with regards to the amount of oil utilized and hence the Examiner maintains that the invention would have been obvious over Sukaki et al. With respect to EPDM, the Applicant argues that the instantly claimed composition does not include EPDM which is required by Sukaki et al, at least in an amount of 50% of the component B as described above. However the Examiner notes that the instant invention is drafted in open claim language and hence does not exclude the incorporation of other elastomers or components, wherein the other 50% of component B taught by Sukaki et al reads upon the claimed partially crosslinked elastomer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Monique R. Jackson
Primary Examiner
Technology Center 1700
October 1, 2006